

ORDINANCE NO. 2013-09-CM
AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF TIPPECANOE
COUNTY, INDIANA, TO REZONE CERTAIN REAL ESTATE
FROM A TO GB

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF TIPPECANOE COUNTY, INDIANA:

Section 1: The Unified Zoning Ordinance of Tippecanoe County, Indiana, being a separate ordinance and not part of a unified county code is hereby amended to rezone the following described real estate situated in Washington Township, Tippecanoe County, Indiana

SEE ATTACHED LEGAL DESCRIPTION

Section 2: The above-described real estate should be and the same is hereby rezoned from A to GB.

Section 3: This ordinance shall be in full force and effect from and after its adoption.

(Adopted And Passed) (Denied) by the Board Of Commissioners of Tippecanoe County, Indiana, this 4th day of March, 2013.

VOTE:

y

David S. Byers
David S. Byers, President

y

John L. Knochel
John L. Knochel, Vice President

y

Thomas P. Murtaugh
Thomas P. Murtaugh, Member

ATTEST:

Jennifer Weston
Jennifer Weston, Auditor

TRACT A

A part of the Northeast Quarter of Section 32, Township 24 North, Range 3 West, Washington Township, Tippecanoe County, Indiana and a part of the Larry E. Miller real estate as described in Instrument Number 200707024122 recorded in the Office of the Tippecanoe County Recorder; said part being described as follows:

Beginning at the northeast corner of said Section 32; thence South $00^{\circ}43'31''$ East, along the east line of the northeast quarter of said section, 386.82 feet to the State of Indiana real estate described in Instrument Number 200909009285; thence along the bounds of said State of Indiana real estate for the following seven (7) courses: (1) along a curve, being concave southeasterly, having radius of 5,765.00 feet and chord bearing South $38^{\circ}27'46''$ West, 547.89 feet, an arc distance of 548.10 feet; (2) South $35^{\circ}44'21''$ West, 1306.86 feet; (3) North $74^{\circ}50'30''$ West, 186.91 feet; (4) North $71^{\circ}45'46''$ West, 93.17 feet; (5) South $88^{\circ}24'51''$ West, 212.94 feet; (6) along a curve, being concave southeasterly, having radius of 720.00 feet and chord bearing South $68^{\circ}51'15''$ West, 476.60 feet, an arc distance of 485.76 feet; (7) South $46^{\circ}43'48''$ West, 155.23 feet to the west line of said Miller real estate; thence North $00^{\circ}59'21''$ West, along said west line, 452.59 feet; thence along a curve being concave southerly, having a radius of 1,070.00 feet and chord bearing North $72^{\circ}26'18''$ East, 582.16 feet, an arc distance of 589.59 feet; thence North $88^{\circ}24'51''$ East, 372.10 feet; thence North $35^{\circ}44'21''$ East, 1026.15 feet; thence along a curve, being concave southeasterly, having a radius of 6,115.00 feet and chord bearing North $39^{\circ}26'31''$ East, 789.81 feet, an arc distance of 790.36 feet to the north line of said northeast quarter; thence North $89^{\circ}18'54''$ East, along said north line, 118.23 feet to the Point of Beginning, containing 23.8 acres, more or less.

Subject to all easements, restrictions and rights-of-way of record.

TRACT B

A part of the Northeast Quarter of Section 32, Township 24 North, Range 3 West, Washington Township, Tippecanoe County, Indiana and a part of the Larry E. Miller real estate as described in Instrument Number 200707024122 recorded in the Office of the Tippecanoe County Recorder; said part being described as follows:

Commencing at the east quarter corner of said Section 32; thence North 00°43'31" West, along the east line of said quarter, 652.70 feet to the State of Indiana real estate described in Instrument Number 200909009285 and the Point of Beginning; thence along the bounds of said State of Indiana real estate for the following five (5) courses: (1) South 63°34'34" West, 168.62 feet; (2) along a curve, being concave northerly, having radius of 600.00 feet and chord bearing South 86°30'05" West, 512.77 feet, an arc distance of 529.82 feet; (3) North 49°53'51" West, 200.83 feet; (4) North 35°44'21" East, 1216.86 feet; (5) along a curve, being concave southeasterly, having radius of 5450.00 feet and chord bearing North 36°32'43" East, 153.35 feet, an arc distance of 153.36 feet to said east line; thence South 0°43'31" East, along said east line, 1134.03 feet to the Point of Beginning, containing 12.7 acres, more or less.

Subject to all easements, restrictions and rights-of-way of record.

TRACT C

A part of the Northeast Quarter of Section 32, Township 24 North, Range 3 West, Washington Township, Tippecanoe County, Indiana and a part of the Larry E. Miller real estate as described in Instrument Number 200707024122 recorded in the Office of the Tippecanoe County Recorder; said part being described as follows:

Commencing at the east quarter corner of said Section 32; thence South 89°32'43" West, along the south line of said quarter, 1826.36 feet to the State of Indiana real estate described in Instrument Number 200909009285 and the Point of Beginning; thence South 89°32'43" West, continuing along said south line, 210.14 feet to said State of Indiana real estate, thence along the bounds of said State of Indiana real estate for the following nine (9) courses: (1) North 0°00'00" East, 163.43 feet; (2) along a curve, being concave southwesterly, having radius of 310.00 feet and chord bearing North 20°14'11" West, 214.46 feet, an arc distance of 218.98 feet; (3) North 32°42'49" West, 104.96 feet to the west line of said Larry E. Miller real estate; (4) North 49°31'35" East, 244.55 feet; (5) along a curve, being concave southerly, having radius of 600.00 feet and chord bearing North 68°51'15" East, 397.16 feet, an arc distance of 404.79 feet; (6) South 76°54'05" East, 170.42 feet; (7) South 71°45'46" East, 72.05 feet; (8) South 53°21'21" East, 133.68 feet; (9) along a curve, being concave northwesterly, having radius of 4100.31 feet and chord bearing South 39°14'24" West, 392.05 feet, an arc distance of 392.20 feet to the State of Indiana real estate described in Instrument Number 200909001192; thence along the bounds of said State of Indiana real estate for the following two (2) courses: (1) South 89°32'16" West, 231.11 feet; (2) South 0°47'39" East, 231.98 feet to the State of Indiana real estate described in Instrument Number 200909009285; thence along said State of Indiana real estate and along a curve, being concave northwesterly, having radius of 4100.29 feet and chord bearing South 47°18'55" West, 110.46 feet, an arc distance of 110.46 feet to the Point of Beginning, containing 8.5 acres, more or less.

Subject to all easements, restrictions and rights-of-way of record.

TRACT D

A part of the East Half of Section 32, Township 24 North, Range 3 West, Washington Township, Tippecanoe County, Indiana and a part of the Larry E. Miller real estate as described in Instrument Number 200707024122 recorded in the Office of the Tippecanoe County Recorder; said part being described as follows:

Commencing at the east quarter corner of said Section 32; thence North $00^{\circ}43'31''$ West, 530.76 feet to the northern right-of-way line of the Northfolk-Southern Railway; thence South $61^{\circ}05'52''$ West, along said right-of-way, 258.05 feet to an eastern extension of the State of Indiana real estate described in Instrument Number 200909009285 and the Point of Beginning; thence South $61^{\circ}05'52''$ West, continuing along said railway right-of-way, 2059.51 feet to a west line of said Miller real estate and to said State of Indiana real estate; thence along the bounds of said State of Indiana real estate and the extensions thereof for the following four (4) courses: (1) North $51^{\circ}45'03''$ East, 372.52 feet; (2) along a curve, being concave northwesterly, having radius of 4415.31 feet and chord bearing North $43^{\circ}00'14''$ East, 1116.67 feet, an arc distance of 1119.66 feet; (3) South $82^{\circ}59'19''$ East, 264.07 feet; (4) along a curve, being concave northerly, having radius of 730.00 feet and chord bearing South $87^{\circ}41'31''$ East, 487.13 feet, an arc distance of 496.65 feet to the Point of Beginning, containing 7.9 acres, more or less.

Subject to all easements, restrictions and rights-of-way of record.

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]
www.tippecanoe.in.gov/apc

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

February 21, 2013
Ref. No.: 13-039

Tippecanoe County Commissioners
20 North 3rd Street
Lafayette, IN 47901

CERTIFICATION

RE: **Z-2518--BRADLEY MILLER (A to GB):**

Petitioner is requesting rezoning of four tracts (the four corners of the new CR 450 N/Hoosier Heartland intersection) totaling ~~404.9~~ 52.9 acres, located approximately $\frac{3}{4}$ of a mile west of the unincorporated town of Buck Creek, Washington 32 (NE) 24-3.

Dear Commissioners:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on February 20, 2013 the Area Plan Commission of Tippecanoe County voted 8 yes - 6 no on the motion to rezone the subject real estate from A to GB. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their March 4, 2013 regular meeting. Petitioners or their representatives must appear to present their case.

Sincerely,

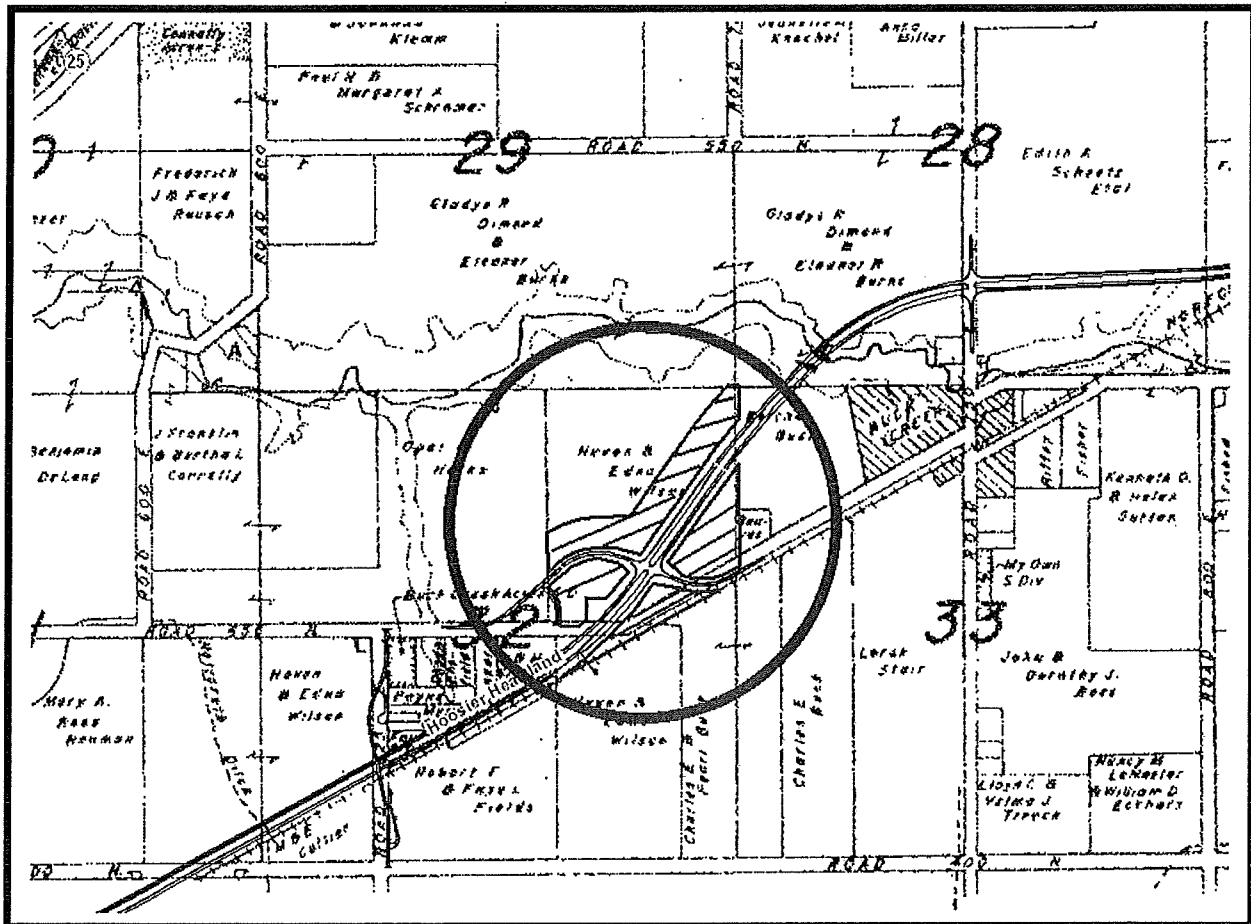

Sallie Dell Fahey
Executive Director

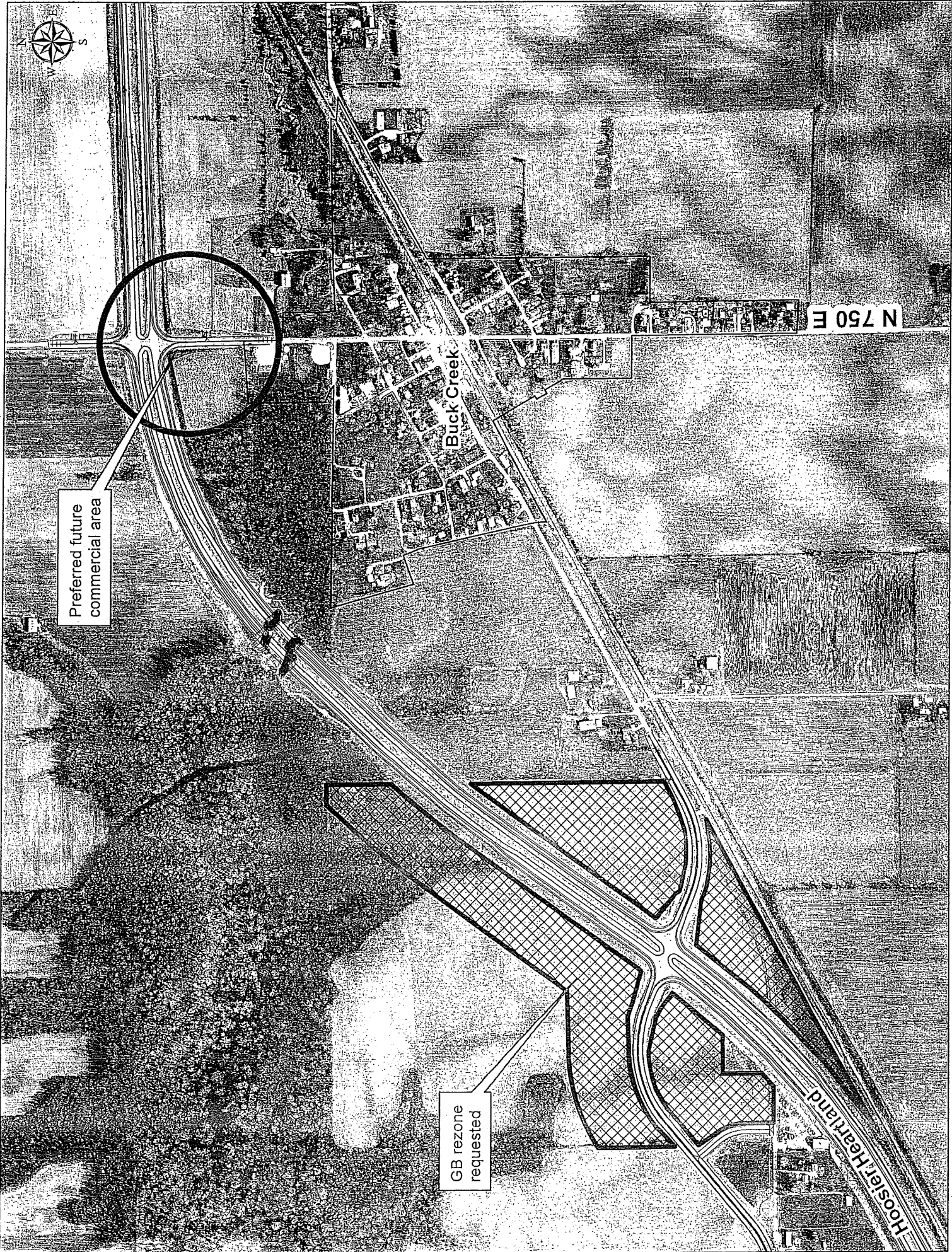
SDF/lmu

Enclosures: Staff Report & Ordinances

cc: Bradley & Brett Miller
Daniel Teder
Ken Brown, Tippecanoe County Building Commissioner
Terri Griffin, INDOT

STAFF REPORT
February 14, 2013





N 750 E

Buck Creek

Preferred future
commercial area

GB rezone
requested

Hoosier Heartland

Staff Report
February 14, 2013

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, who along with Brett Miller is the property owner, and represented by Daniel Teder, is requesting rezoning of four tracts (the four corners of the new CR 450 N/Hoosier Heartland intersection) totaling 404.9 52.9 acres, located approximately ¾ of a mile west of the unincorporated town of Buck Creek, Washington 32 (NE) 24-3.

It was recently brought to staff's attention that this request includes an acre or two of old county road right-of-way currently owned by Tippecanoe County. This land must be excepted out of the legal description or the Board of County Commissioners must give its consent to the GB rezone prior to this case being heard.

ZONING HISTORY AND AREA ZONING PATTERNS:

The property and all surrounding land are zoned Agricultural and have been since the inception of zoning in the county.

Commercial and residential zoning can be found to the east in the town of Buck Creek.

AREA LAND USE PATTERNS:

The current site is undeveloped and in agricultural production. A strip of wooded land bisects the extreme northeastern corner of the site.

TRAFFIC AND TRANSPORTATION:

The construction of the at-grade intersection of CR 450 N and the Hoosier Heartland in the middle of this 101 acre parent tract has created four separate pieces of property.

State Road 25 is a limited access highway; any access to the site must be from CR 450 N or the feeder road. When this intersection was built, 4 field entrances were created specifically for farmers to access their fields. There is no guarantee that these field entrances can be used for commercial purposes; there are deep ditches along both sides of the newly created county road. Any conversion from a field entrance to a commercial driveway must be reviewed and approved through the County Highway Department.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Neither public sewer nor water service is available to serve development on this site. Petitioner will need to be in contact with the Tippecanoe County and State Department of Health to determine utility needs and suitability.

A 15' wide Type B bufferyard is required to be installed on all property lines that abut A zoning. In addition, if approved a 30' side setback (instead of the typical ordinance standard of 0') must be observed on a portion of the eastern property line where the site abuts a residential use.

STAFF COMMENTS:

With the completion of the Hoosier Heartland highway, staff knew that there would be proposed rezones and development. In anticipation, staff participated in an in-house planning exercise to evaluate potential new growth, location and development patterns.

It has always been staff's position, supported by the adopted *Comprehensive Plan* that development in the county should only occur in areas served by public utilities. This policy protects and conserves agricultural land, keeps development closer to the core of our community's population centers, limits neighboring incompatible uses and prevents sprawl.

In keeping with this position, staff believes the only places commercial zoning are justifiable without public utilities is in our small towns. As directed by the intent statement of the NBU (Neighborhood Business Urban) zone in the Unified Zoning Ordinance, staff feels that neighborhood business commercial zoning is both appropriate and necessary to allow towns such as Buck Creek and Colburn to grow and thrive.

"To preserve and protect older parts of the community by providing areas for retail and service establishments that are convenient to neighborhood residents...(on) platted lots within the following unincorporated towns: Buck Creek, Colburn....either on sewerred lots or with on-site sewage disposal system approval from the Tippecanoe County Health Department" (UZO 2-13-1).

This intersection near Buck Creek is one of only three at-grade crossings in the county on the recently constructed Heartland; one is immediately north of Buck Creek on CR 750 and the other outside of Colburn at CR 1000 E. The intersection with CR 750 E, which is about ¼ mile to the east of the site in question, is not only closer to the non-residential portion of Buck Creek, but it also serves as the route to the town of Americus. Neighborhood Business zoning at the southern half of the CR 750 E intersection would allow for the opportunity to concentrate new economic opportunities adjacent to the town's core, even without the benefit of sanitary utilities. (See the attached map for locations of the intersections.) NB zoning would help ensure that potential uses locating there would serve the residents of Buck Creek and not just the traveling public.

The subject request is also too large; there is no need for over 50 acres zoned General Business in an overwhelmingly agricultural area, spread out thousands of feet along both frontages of the highway. The Hoosier Heartland has been thirty years in the making. It is a brand-new, modern highway that not only greatly improves the safety of travelling motorists but showcases the rolling fields of north central Indiana. As the General Business zoning district permits billboards by right, allowing the GB zone along both sides of the Heartland in this fashion would most certainly usher in an era of billboards, positioned as close together as permitted by UZO standards (1000').

The proximity of the Hoosier Heartland provides a chance for Buck Creek to expand to the north and would also serve the nearby town of Americus only 2 ½ miles to the north. Thus, staff can *only* support, as guided by the *Comprehensive Plan* and Unified Zoning Ordinance, neighborhood business zoning adjacent to the north of Buck Creek to encourage the responsible growth of our small towns and rejects this much too large and much too commercially intense request for GB zoning.

STAFF RECOMMENDATION:

Denial